

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION CONFERENCE COMMITTEE ON SENATE AMENDMENTS TO HOUSE BILL 208

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on April 17, 2001
at 2:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Al Bishop (R)
Sen. Steve Doherty (D)
Rep. Mark Noennig (R)
Rep. Christopher Harris (D)
Rep. Ken Peterson (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Staff
Mary Lou Schmitz, Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:
Executive Action: **HB 208**

Senator Grosfield asked **Rep. Harris** to explain his Bill and the Senate amendments. **Rep. Harris** said the only amendment he is concerned about has to do with page 2, lines 22 and 23. Despite some contrary language he is starting to "warm up" to the Senate amendments and understands the logic of them.

Mr. MacMaster said he checked the Senate amendments because he wrote the Bill to codify its statutory law because of two recent compelling Supreme Court cases. In one of them it said "prosecutions for criminal contempt must be carried out pursuant to the procedures set forth in Title 46 to ensure that criminal penalties are not imposed on someone who has not been afforded the proper protection". He said there is a Title 46 Section

under which you can impose a criminal contempt punishment and there is a Title 3 Section under which you can impose a criminal contempt punishment. Montana Criminal Contempt Court describes Title 45-7-309, then it goes on to say prosecution for criminal contempt must be carried out using Title 46 procedures. The Court doesn't specifically mention Title 3 Section which is at the bottom of page 2 of the Bill.

He is not sold that there is anything wrong with the Senate amendments either.

Discussion: Reps. Peterson, Noennig, Senator Doherty to Rep. Harris and Mr. MacMaster for further clarification. Mr.

MacMaster said what the cases say is you don't charge or accuse the person of criminal contempt. You accuse them or charge them with contempt and what makes the contempt civil or criminal is at the point you impose the penalty and if the penalty is imposed in an attempt to get you to do an act, look at the penalty, then that makes it a criminal contempt. If the penalty is designed truly to punish you, whether or not you do that act, then that makes it a civil contempt. Under 3-1-511, you can have either one.

Motion/Vote: Rep. Harris moved as follows: Page 2, Line 21 through 23 with amendments that say "A person may be found guilty of and penalized for criminal contempt by proof beyond a reasonable doubt. The procedures provided in Title 46 apply to criminal contempt prosecutions, except those under 3-1-511".

Motion carried unanimously 6-0.

{Tape : 1; Side : A; Approx. Time Counter : 0.1 - 24}

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ADJOURNMENT

Adjournment: 2:24 P.M.

SEN. LORENTS GROSFIELD, Chairman

MARY LOU SCHMITZ, Secretary

LB/mls

EXHIBIT (cch84hb0208aad)